No. 569

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CHARLES ELMORE CROPLEY
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In the Supreme Court of the United States

ROBERT E. LEE FOULKES,
Petitioner,

vs.

STATE OF OREGON,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF OREGON.

ROBERT E. LEE FOLKES,
Petitioner,
In Propria Personia.

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STEVENS-NESS LAW PUB. CO., PORTLAND

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TO the Honorable Harlan Fiske Stone, Chief Justice of the United States and to the Honorable Associate Justices of the Supreme Court of the United States:

Comes now Robert E. Lee Foulkes, in propria personia, and prays the Court for a Writ of Certiorari to be directed to the Supreme Court of the State of Oregon, to review a judgment of that Court entered on the 20th day of June, 1944, Petition for Rehearing denied on the 25th day of July, 1944.

Your Petitioner, a negro youth, was convicted of the crime of murder, allegedly committed on a train while traveling through Linn County, Oregon, and sentenced to death in the lethal chamber, which judgment of death was affirmed as aforesaid by the highest Court of Law of the State of Oregon, the Supreme Court. The decision is set forth in the transcript and reported in the Oregon Report Advance Sheets, Vol. 38, No. 22, June 20, 1944.

Your Petitioner's conviction was based solely on the purported oral admissions of the Petitioner, which admissions were obtained by police officers in Los Angeles, California, and Albany, Oregon, through the use of whiskey (Tr. Pet. pp. 126, 128, 335, 340, 415) threats of mob violence (Tr. Pet. p. 299), beating (Tr. Pet. p. 340), promises and illegal inducements (Tr. Pet. pp. 127, 238, 262), showing petitioner gruesome pictures (Tr. Pet. pp. 234, 235).

That the admission into evidence of the purported oral admissions of the defendant obtained by police officers, as aforesaid, is in violation of the Constitution of the United States of America, and the Law of the State of Oregon,

> E. E. Ashcraft and John Ware v. State of Tennessee on Writ of Certiorari to the Supreme Court of the State of Tennessee, handed down by the U. S. Supreme Court May 1st, 1944.
>
> McNabb v. United States, 318 U.S. 332, 1943.

That the Court admitted the aforesaid oral statements of the petitioner and the transcribed notes over objection of counsel, the admission of the purported oral admissions of the defendant and the transcribed notes constituted error as held by the Supreme Court of the State of Oregon, although the Supreme Court of the State of Oregon holds that that error was not prejudicial and that there is sufficient other evidence to warrant the conviction of the petitioner. (Tr. Pet. pp. 22, 23).

That the aforesaid holding of the Supreme Court of the State of Oregon is contrary to due process and contrary to the holding of the United States Supreme Court in the case of Bram v. United States, 168 U.S. 532.

That your petitioner requested the Oregon statutory mandatory instruction concerning the oral admissions of a party and that the same should be viewed with caution. However, the Supreme Court of the State of Oregon ruled that it was not necessary to give the statutory and mandatory instruction, even though requested by petitioner, notwithstanding the Oregon Code of Laws Annotated provides, Sec. 2-1001:

> "JURY JUDGES OF THE EFFECT OF EVIDENCE: Instructions. The jury, subject to the control of the court, in cases specified in this Code, are the judges of the effect or value of evi-

> dence addressed to them, except when it is thereby declared to be conclusive. They are, however, to be instructed by the court on all proper occasions: * * *
>
> "4. That the testimony of an accomplice ought to be viewed with distrust, and the oral admissions of a party with caution."

Any deviation or departure from the settled rule of trial procedure in a capital case dissipates the petitioner's rights under the Constitution and deprives him of his life without due process of law.

That in this cause the Supreme Court of the State of Oregon in its decision substituted itself for a jury and tried "de novo" the facts of this action, contrary to the law of the State of Oregon.

That the Supreme Court of the State of Oregon committed grievous error in allowing the admission of evidence of some other crimes allegedly committed by the defendant whch were not proven and were not true. (See the Honorable Justice Rossman and Kelly's Dissenting Opinion, pp. 73-96 Tr. Pet.).

In submitting this petition for a Writ of Certiorari your petitioner earnestly submits that in the event this conviction is allowed to stand as affirmed by the Supreme Court of the State of Oregon, then the use of whiskey, threats of mob violence, beatings, long hours of questioning, days of restraint before bringing an accused before a magistrate, refusal of a trial court to follow the legislative enactments con-

cerning the trial of capital causes, and judges sitting in place of a jury in determining facts, become the American manner in the administration of justice. The writer cannot believe that the United States Supreme Court will countenance such procedure.

Respectfully submitted,

ROBERT E. LEE FOLKES,
Petitioner,
In Propria Personia.

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